

**REMARKS**

Claims 1-6 are all the claims currently pending in the application. Claims 1-3 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Uebayashi et al. (US 2003/0198205).

Further, the Examiner has indicated that claims 4-6 contain allowable subject matter. Accordingly, by this Amendment, Applicant has rewritten claim 4 into independent form. Therefore, claims 4-6 are now in condition for allowance.

**I. General Remarks**

The Examiner has not acknowledged the drawings filed on February 27, 2002. Accordingly, Applicant respectfully requests the Examiner to indicate, in the next Office Action, whether such drawings are acceptable.

The Examiner has not indicated receipt of the Information Disclosure Statement filed on February 27, 2002. Therefore, Applicant respectfully requests that the Examiner indicate consideration of the references listed in the February 27, 2002 Information Disclosure Statement in the next Office Action.

Further, the Examiner returned the PTO 1449 form for the March 12, 2003 Information Disclosure Statement. However, the Examiner failed to initial the U.S. Document. Accordingly, Applicant submits herewith the partially initialed PTO 1449 form and respectfully requests the Examiner to initial the remaining document.

**II. Claims 1-3**

With respect to the § 102(e) rejection, the Examiner relies on Uebayashi for allegedly disclosing “designating a communication quality in requesting communication” and a radio network controller “to control the communication quality,” as recited in independent claim 1. In particular, the Examiner asserts that Uebayashi discloses a mobile terminal capable of designating a communication quality (high speed communications) in requesting communication and a radio network controller 412 which designates the communication quality from the mobile terminal. Applicant respectfully disagrees.

Claim 1 recites that the communication quality is based on an error rate in the radio channel between the mobile terminal and the radio base station. On the other hand, the referenced portion of Uebayashi does not disclose or address, in any manner, the “quality” of the communication. Instead, Uebayashi discloses the “quantity” of transmissions with respect to speed. Specifically, Uebayashi discloses controlling the band allocation between high speed communication channels and low speed communication channels. (Paragraph 0028). Bandwidth, of course, refers to the speed of, or capacity for, data transfer of an electronic communications system, especially the maximum data transfer rate of such a system. On the other hand, Uebayashi fails to disclose, teach or suggest any form of signal transmission control related to the quality of the communication in terms of a measured error rate.

Independent claim 1 specifically recites the term “communication quality.” This term does not relate to the bandwidth of the given communication signal. Instead, as set out in the

non-limiting embodiment of the specification at pg. 8, lines 2-7, and as recited in claim 1, communication quality is based on the error rate in the radio channel between the mobile terminal 100 and the radio base station 200. Therefore, the recited “communication quality” is very different from a “quantity” of communication which refers to speed or bandwidth as disclosed or taught by Uebayashi.

With respect to “communication quality,” independent claim 1 recites, among other things, a mobile terminal capable of designating a communication quality, a radio network controller connected to said radio base station to control the communication quality, a communication request reception determination unit which receives a communication request which designates a communication quality, etc. Since Uebayashi does not disclose or address communication quality (as related to error rates) in any manner, it fails to disclose at least these recited elements of claim 1. Further, since claims 2-3 depend from claim 1, these claims are also allowable at least based on their dependence from claim 1 for at least the same reasons described above.

### **III. Newly Added Claim**

Applicant has added claim 7 to provide more varied protection of the present invention. Applicant submits that claim 7 is patentable for at least analogous reasons as claim 4.

**IV. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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Date: **September 7, 2005**